

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-6956

NATHANIEL MANNING,

Plaintiff - Appellant,

versus

SERGEANT HIBBERT; MR. BASNIGHT, Unit Manager;
OFFICER MOOR; OFFICER NEEDHEN; OFFICER OWEAN;
OFFICER MARTIN,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern
District of North Carolina, at Raleigh. W. Earl Britt, Senior
District Judge. (CA-01-316)

Submitted: October 1, 2003

Decided: October 17, 2003

Before MICHAEL and KING, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Dismissed by unpublished per curiam opinion.

Nathaniel Manning, Appellant Pro Se. Deborrah Lynn Newton,
Assistant Attorney General, Raleigh, North Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Nathaniel Manning seeks to appeal the district court's order substantially adopting the report and recommendation of a magistrate judge and granting summary judgment to Defendants in his 42 U.S.C. § 1983 (2000) action. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corr., 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's judgment was entered on the docket on March 10, 2003. The notice of appeal was filed on June 11, 2003.* Because Manning failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal. We also note that Manning's failure to file objections to the magistrate judge's report and recommendation waived

* For the purpose of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

appellate review. See United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED